



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23-8]

Heather M. Entrekin, DVM; Decision and Order

On August 9, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Heather M. Entrekin, DVM (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's Certificate of Registration¹ because Respondent is "without authority to handle controlled substances in the State of Alabama, the state in which [she is] registered with DEA." *Id.* at 2.

Respondent timely requested a hearing; thereafter, the Government filed and the Chief Administrative Law Judge (CALJ) granted a Motion for Summary Disposition recommending the revocation of Respondent's registration. Order Granting the Government's Motion for Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Recommended Decision or RD), at 5-7. Respondent did not file exceptions to the RD. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the CALJ's rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

Findings of Fact

On May 19, 2022, the Alabama Board of Veterinary Examiners issued an Order that suspended Respondent's Alabama controlled substance license. RD, at 4; *see also* Government's Motion for Summary Disposition, Exhibit (GX) 2, Attachment A, at 1. As of November 22, 2022, Respondent's Alabama controlled substance license was still suspended. RD, at 4; GX 2,

¹ Registration No. FE4914164 at the registered address of 1360 Montgomery Hwy, Ste 114, Vestavia Hills, AL 35216-2750. *Id.* at 1.

Attachment B.² Accordingly, the Agency finds that Respondent is not currently licensed to handle controlled substances in Alabama, the state in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition³ for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

² The Agency has no indication that the status of Respondent’s license (which is not publically available information) has changed. Prior to the issuance of the RD, Respondent acknowledged that her license was suspended. *See* Respondent’s Response, at 3-4. Following the issuance of the RD, Respondent did not file any Exceptions to indicate that her license had been restored, nor has the Agency to date received any correspondence from Respondent regarding any changes to the status of her license. Accordingly, the Agency finds that Respondent’s Alabama controlled substance license remains suspended as of the date of signature of this Order. Respondent may dispute the Agency’s finding by filing a motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order with supporting documentation (showing that Respondent was able to dispense controlled substances on or before the date of this Order). Any such motion and response shall be filed and served by e-mail to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

³ As such, the Agency finds Respondent’s arguments regarding the permissive nature of 21 U.S.C. 824(a)(3), *see* Respondent’s Response, at 3-4, to be unavailing. RD, at 5; *see also Bhanoo Sharma, M.D.*, 87 FR 41355, 41356 n.4 (2022).

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . veterinarian . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. No. 117-215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR 71371-72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617. Moreover, because “the controlling question” in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner’s registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR at 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held

According to Alabama statute, “[e]very person who manufactures, distributes, or dispenses any controlled substance within [the] state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within [the] state must obtain annually a registration issued by the certifying boards in accordance with [their] rules.” Ala. Code section 20-2-51(a) (2022); *see also* Ala. Admin. Code r. 930-X-1.13(1) (2022) (“[a]ll licensed veterinarians who handle controlled substances must register annually with the State Board and get a state controlled substance number from the Board”). Further, “dispense” means “[t]o deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.” Ala. Code section 20-2-2(7) (2022).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to dispense controlled substances in Alabama because her Alabama controlled substance license has been suspended. RD, at 5. As discussed above, an individual must hold an Alabama controlled substance license to dispense a controlled substance in Alabama. RD, at 5-6. Thus, because Respondent lacks authority to handle controlled substances in Alabama, Respondent is not eligible to maintain a DEA registration. *See* RD, at 6. Accordingly, the Agency will order that Respondent’s DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FE4914164 issued to Heather M. Entrekin, DVM. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Heather M. Entrekin, DVM, to renew or

that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence here that the final outcome of the underlying action against Respondent may still be pending. *See* Respondent’s Response, at 3-4. What is consequential is the Agency’s finding that Respondent is not currently authorized to dispense controlled substances in Alabama, the state in which she is registered with the DEA. *Austin J. Kosier, M.D.*, 87 FR 4941, 4943 (2022).

modify this registration, as well as any other pending application of Heather M. Entrekin, DVM, for additional registration in Alabama. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Heather Achbach,
Federal Register Liaison Officer,
Drug Enforcement Administration.

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